Panel Decision for dispute CAC-ADREU-001707

Case number	CAC-ADREU-001707
Time of filing	2006-06-09 13:05:20
Domain names	uci.eu

Case administrator

Name	Eva Zahořová

Complainant

Organization / Name	UCI, S.A.

Respondent

Organization / Name	EURid

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

None

FACTUAL BACKGROUND

The Complainant, UCI, S.A., applied for the registration of the domain name <uci.eu> during the phased registration period.

The Respondent, EURid, decided on April 25, 2006 that the Complainant's application would not be considered as a prior application filed by United Cinemas International (UK) Limited (hereinafter "United Cinemas") for the same domain name had been granted.

A. COMPLAINANT

The Complainant states that the decision of the Respondent does not fulfil the requirements of Commission Regulation (EC) No 874/2004 (hereinafter the "Regulation") or Regulation (EC) No 733/2002, as – according to the Complainant – the domain name owner United Cinemas does not have any "prior right" for UCI, as understood by Article 10.1 of the Regulation.

The Complainant has searched the OHIM online databes of Community Trademarks and found no references to any UCI marks registered in the name of United Cinemas.

The Complainant refers to the fact that it is the owner of two Community Trademark registrations Nos 3 738 598 and 3 379 138 for the mark UCI, and claim that the Respondent should have granted the disputed domain name to the Complainant instead of the present holder.

Finally, the Complainant requests the Panel the "disclosure and delivery…of the file in which the decision to grant the domain name <uci.eu> to United Cinema International has been taken".

The Complainant requests that the Panel issue a decision that the domain name <uci.eu> be revoked and transferred to the Complainant.

B. RESPONDENT

The Respondent refers to Article 10 of the Regulation, stating that:

"'Prior rights' shall be understood to include, inter alia, registered national and community trademarks, geographical indications or designations of origin, and, in as far as they are protected under national law in the Member-State where they are held: unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of protected literary and artistic

works".

The Respondent further describes the rules for validation and registration of applications received during the phased registration, including the work carried out by the Validation agent regarding the applicant's documentary evidence of the claimed prior right, and the rule that if the Registry receives more than one claim for the same domain during the phased registration period, applications shall be dealt with in strict chronological order (Article 14 of the Regulation).

United Cinemas applied for <uci.eu> on December 7, 2005 invoking a prior right on the name UCI in the form of the UK trademark "UCI" registered on July 17, 1992.
This application was the first received by the validation agent for the domain name UCI. The applicant sent the documentary evidence demonstrating its prior right within the official time limit. The Respondent was informed by the validation agent that it found that the prior right existed and that the applicant was the holder thereof, and consequently the Respondent validated the registration.

The Respondent requests that the Panel issue a decision that the Complaint is denied.

DISCUSSION AND FINDINGS

As stated by the Respondent, Article 10 of the Regulation defines "prior rights" as to include, inter alia, registered national and community trademarks.

United Cinemas are the owners of the UK trademark registration No 1 397 006 for the word mark UCI, filed September 5, 1989 and registered March 20, 1992. A valid national trademark registration qualifies as a "prior right". United Cinemas has sent the documentary evidence of this prior right on time and the validation agent has confirmed the existence of this right to the Respondent.

Referring to the above, it is the Panels opinion that the Complainants request for disclosure of the grounds of the decision to grant United Cinemas the disputed domain name has been fulfilled.

As United Cinemas' application for <uci.eu> was prior to the Complainant's application for the same domain name, the Panel concludes that the Respondent rightfully accepted the application of the first applicant (United Cinemas).

Accordingly, the Respondent correctly registered the domain name <uci.eu> in favour of United Cinemas.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the Complaint is Denied.

PANELISTS

Name	**Petter Rindforth**

DATE OF PANEL DECISION 2006-09-13

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant applied for the registration of the domain name <uci.eu> during the phased registration period, however the said domain name was granted United Cinemas International (UK) Limited.

Complainant is the owner of two Community Trademark registrations for UCI, but has not found any evidence that United Cinemas have any CTM prior rights to UCI.

The Complaint was denied as the disputed domain name was registered in the name of United Cinemas based on their national UK trademark registration for the word mark UCI and Article 10 of the Regulation defines "prior rights" as to include, inter alia, registered national trademarks. Thus, the domain name was registered based on a valid prior right.